THE GREAT NATIONAL CRISIS.

The Red Platform of 1860 of the Republican Party.

HANDBOOK OF THE HIGHER LAW.

SLAVERY ABOLISHED BY THE CONSTITUTION.

The Writ of Habeas Corpus to Free the Slaves.

THE DUTY OF CONGRESS.

The Courts Throughout the South to be Surrounded and Sustained by Military Force.

The Slaves to be Armed and Organized as Militia.

The "Irrepressible Conflict" Pure and Simple.

Negroes Constitutionally Eligible to the Presidency.

Where the Republican Stump Orators Get their Inspiration.

Wholesale Endorsement of this Platform by the Republican Leaders.

THE RESULT.

The Success of the Republican Party in 1860 the Inauguration of a Second St. Domingo.

READ AND PONDER.

&c., &c., &c.

In the year 1845 Lysander Spooner, Esq., entered according to act of Congress in the Clerk's office of the District Court of Massachusetts, the copyright of a book entitled "The Unconstitutionality of Slavery." We have now before us a copy purporting to be of the "seventh thousand," published in Boston in 1856. It is a complete handbook of the "higher law" party, setting forth the arguments and pleadings under which the nigger is proved to be "legally" as good as a white man, and eligible to every office in the gift of the people, including the Presidency of the United States. The identity of its doctrines and arguments with those now inculcated and used by the black republican leaders and the fanatic abolitionists shows it to be the very fountain head from which they have derived the theories they now proclaim; and as it gives the practical course they intend to follow, and the ultimate object they hope to obtain, its importance in the pending political crisis that threatens the country cannot be exaggerated or over estimated. The subject comes practically home to every business and every hearthstone in the Union.

THE TITLE PAGE.

THE

UNCONSTITUTIONALITY OF SLAVERY.

ENLARGED EDITION.

BY LYSANDER SPOONER.

PUBLISHED AND FOR SALE BY

BELA MARSH,

14 BROMFIELD STREET, BOSTON.

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NOTICES.

HON. WM. H. SEWARD writes to Gerrit Smith concerning it as follows:—

AUBURN, Nov. 9, 1853.

MY DEAR SIR—I thank you for sending me a copy of Mr. Spooner's treatise. I had bought a copy of the first edition. It is a very able work, and *I wish that it might be universally studied. The writing and publishing of such books is the most effective way of working out the great reformation which this nation is required to make by the spirit of humanity.* Very sincerely, your friend and obedient servant,

WILLIAM H. SEWARD.

The Hon. GERRIT SMITH.

FURTHER ENDORSEMENTS.

HON. ALBERT G. BROWN, Senator in Congress from Mississippi, in the Senate, December 2, 1856 (as reported in the *Congressional Globe*), after describing the book, as "making an argument in favor of the constitutional power of Congress, not only to interfere with, but to abolish slavery in the Southern States of the Union," said:—"The Senator (Wilson) did not say—what I am willing to say myself—that the book is ingeniously written. No mere simpleton could ever have drawn such an argument. If his premises were admitted I should say at once that it would be a herculean task to overturn his argument."

[Although Mr. Brown thus leaves it to be inferred that he thought there might be some error in the premises, he made no attempt to point out any. It would seem to be incumbent on him to do so.]

GERRIT SMITH says:—"The more I read that admirable, invincible and matchless argument which Lysander Spooner has made to show the unconstitutionality of slavery, the more I am pleased with it. He yields nothing but what the legal rules of interpretation compel him to yield. And why should he make unnecessary concessions in an argument undertaken in behalf of all that is sacred and vital in the rights of man? Were I studious of fame or usefulness, I had rather be the author of this manly, brave and independent argument against the constitutionality of slavery than of any other law argument ever written, either in this age or in any former age—either on this side or on the other side of the Atlantic. Why will not all lawyers read it? *Who of them could read it without being convinced that slavery is unconstitutional?*"

WENDELL PHILLIPS, without confessing his conviction of its truth, says:—"This claim (of the anti-slavery character of the constitution) has received the fullest investigation from Mr. Lysander Spooner, who has urged it with all his unrivalled ingenuity, laborious research and close logic."

ELIZUR WRIGHT calls it "one of the most magnificent constitutional arguments ever produced in any country. It needs such a work as Mr. Spooner's, on constitutional law, to make the constitution of the least value to us as a shield of rights."

WILLIAM LLOYD GARRISON, speaking of Part First, and disagreeing to its conclusions, on the ground that the words of the constitution do not fully express the intentions of its authors, yet says, "His logic may be faultless as a mere legal effort. We admit Mr. Spooner's reasoning to be ingenious; perhaps, as an effort of logic, unanswerable. It impresses us as the production of a mind equally honest and acute. Its ability, and the importance of the subject on which it treats, will doubtless secure for it a wide circulation and a careful perusal."

JOSHUA LEAVITT says of Part First:—"It is unanswerable. There will never be an honest attempt to answer it. Neither priest nor politician, lawyer nor judge, will ever dare undertake to sunder that iron-linked chain of argument which runs straight through this book from beginning to end."

NATHANIEL P. ROGERS, speaking of Part First, and agreeing with some of its positions, and disagreeing with others, says:—"It is a splendid essay. If the talent laid out in it were laid out in the bar, it would make the author distinguished and rich." "This essay should give the author a name at the Boston bar. It will at the bar of posterity."

SAMUEL E. SEWALL, Esq., says of Part First:—"It may gain general attention, not merely from the importance of the subject, but from the masterly manner in which it is handled. It everywhere overflows with thought. *We regard it as a great arsenal of legal weapons to be used in the great contest between liberty and slavery.* I hope it will receive the widest circulation."

J. FULTON, Jr., says of Part First:—"Now that I have read it, I feel bound to say that it is the most clear and luminous production that I have ever read on the subject. It begins without a line of preface, and ends without a word of apology. It is a solid mass of the most brilliant argument, unbroken, as it seems to me, by a single flaw, and treads down as dust everything which has preceded it upon that subject. Let every friend of the slave read the work without delay. *I believe it is destined to give a new phase to our struggle.*"

RICHARD HILDRETH says of Part First:—"No one can deny to the present work the merit of great ability and great learning. If anybody wishes to see this argument handled in a masterly manner, with great clearness and plainness, and an array of constitutional learning which, in the hands of most lawyers, would have expanded into at least three royal octavos, we commended them to Mr. Spooner's modest pamphlet of one hundred and fifty pages."

ELIHU BURRITT says:—"It evinces a depth of legal erudition which would do honor to the first jurist of the age."

THE TRUE AMERICAN (Courtland County, N. Y.) says:—"It is an imperishable and triumphant work. A law argument that would add to the fame of the most famed jurist living or dead."

THE BANGOR GAZETTE says:—"It is indeed a masterly argument. No one, unprejudiced, who has supposed that that instrument (the constitution) contained guarantees of slavery, or who has had doubts upon the point, can rise from the perusal without feeling *relieved from the supposition that our great national charter is one of slavery and not of freedom.* And no lawyer can read it without admiring, besides its other great excellences, the clearness of its style, and its logical precision."

THE HAMPSHIRE HERALD (Northampton) says:—"It is worthy the most gifted intellect in the country."

WILLIAM L. CHAPLIN says:—"This effort of Mr. Spooner is a remarkable one in many respects. It is unrivalled in the simplicity, clearness and force of style with which it is executed. The argument is original, steel-ribbed and triumphant. It bears down all opposition. Pettifogging, black-letter dullness and pedantry, special pleading and demagogism all retire before it. *If every lawyer in the country could have it put into his hands, and be induced to study it, as he does his brief, it would alone overthrow slavery.* There is moral force enough in it for that purpose."

THE LIBERTY PRESS (Utica) says:—"The author labors to show, and does show, *that slavery in this country is unconstitutional, and unsustained by law, either State or federal.*"

THE GRANITE FREEMAN says:—"We wish every voter in the Union could have the opportunity to read this magnificent argument. We should hear no more, after that, of the 'compromises of the constitution' as an argument to close the lips and palsy the hands of those who abhor slavery, and labor for its removal."

THE CHARTER OAK says:—"Of its rare merit as a controversial argument it is superfluous to speak. It may, in fact, be regarded as unanswerable, and we are persuaded that *its general circulation would give a new aspect to the anti-slavery cause, by exploding the popular, but mistaken notion, that slavery is somehow entrenched behind the constitution.*"

THE LIBERTY GAZETTE (Burlington, Vt.,) says:—"This work cannot be to highly praised, or too extensively circulated. Its reasoning is conclusive, and *no one can read it without being convinced that the constitution, instead of being the friend and protector of slavery, is a purely anti-slavery document.*"

THE INDIANA FREEMAN says:—"Every abolitionist should have this admirable work, and keep it in constant circulation among his neighbors."

SYNOPSIS OF ITS CONTENTS.

CHAPTER I. WHAT IS LAW?—*Nothing inconsistent with justice can be law.* Falsehood of the definition, that "Law is a rule of civil conduct, prescribed by the supreme power of a State."

[Where the genuine trial by jury prevails this principle can be carried out in practice.]

CHAP. II. WRITTEN CONSTITUTIONS.—Admits, for the sake of the argument, that constitutions and statutes, inconsistent with justice, may be made law; and insists only that our constitutions shall be interpreted by the established rules, by which all other legal instruments are interpreted; one of which rule is, that *all words that are susceptible of two meanings, one favorable to justice and the other to injustice, shall be taken in the sense favorable to justice.*

CHAP. III. THE COLONIAL CHARTERS.—That these charters were the constitutional law of the colonies up to he time of the Revolution; that the provisions in them o the effect that their legislation should be "consonant to reason, and not repugnant or contrary, but so far as conveniently may be, agreeable to the laws, statutes, customs and rights of this our kingdom of England," made it *impossible that slavery could have any legal existence in the colonies up to the time of the Revolution;* and that the decision of the King's Bench, in Somerset's case, was as much applicable to the colonies as to England. *Note* corrects Bancroft's statement that England ever legalized the slave trade.

CHAP. IV. COLONIAL STATUTES.—Shows that the colonial legislation on the subject of slavery failed to identify, with legal accuracy, the persons to be made slaves; and, therefore, even if such legislation had been constitutional, would have failed to legalize slavery. That, consequently, *there was no legal slavery in the country up to the time of the Revolution.*

CHAP. V. THE DECLARATION OF INDEPENDENCE.—By this the nation declares it to be "a self-evident truth" that all men are created free and equal. *All "self-evident truths" are necessarily a part of the law of the land, unless expressly denied.* The nation, as a nation, has never denied this self-evident truth, which it once asserted. *This truth is, therefore, a part of the law of the land, and makes slavery illegal.*

CHAP. VI. THE STATE CONSTITUTIONS OF 1789.—*None of the State constitutions in existence in* 1789 *established or authorized slavery.* All of them, on their face, are free constitutions. Shows that the words "free" and "freeman," used in these constitutions, were used in the English or political sense, to designate native or naturalized persons, as distinguished from aliens, or persons of foreign birth not naturalized; and that they were, in no case, used to designate a free person, as distinguished from a slave. That the use of the words in this sense, in the State constitutions of 1789, as they had been previously used in the colonial charters and colonial legislation, furnish an authoritative precedent by which to fix the meaning of the words, "free persons," in the constitution of the United States, in the clause relative to representation and direct taxation.

CHAP. VII. THE ARTICLES OF CONFEDERATION contain no recognition of slavery, but use the word "free" in the English or political sense, to signify the native and naturalized citizens, as distinguished from aliens; and thus furnish a precedent, authorized by the whole nation, for giving the same meaning to the word "free" in the constitution.

CHAP. VIII. THE CONSTITUTION OF THE UNITED STATES.—This chapter, in the first place, takes it for granted to have been shown that *slavery had no legal existence up to the time of the adoption of the United States constitution.* It then says that that constitution certainly did not create or establish slavery as a new institution; that the most that can be claimed is that it recognized the legality of slavery so far as it then legally existed under the State government: but that, *as slavery then had no legal existence, under the State governments,* any intended recognition of it by the constitution of the United States must necessarily have failed of effect. That, consequently, all "*the people of the United States*" *were made* "*citizens of the United States*" *by the constitution; and, therefore, could never afterwards be made slaves by the State governments.*

Secondly. Shows, from its provisions, *that the constitution of the United States does not recognise slavery as a legal institution, but presumes all men to be free; denies the right of property in man; and, of itself makes it impossible for slavery to have a legal existence in any of the United States.* Shows that the clause relative to persons held to service or labor has no reference to slaves; that the term "free persons," in the clause relative to representation, is used in the political sense, to designate native and naturalized persons, as distinguished from persons of foreign birth not naturalized; that the clause relative to "migration and importation of persons" does not imply that the persons imported are slaves; that it makes no discrimination as to the persons, whether African or European, to be imported; that it as much authorizes the importation of Englishmen or Frenchmen, as slaves, as it does Africans; that it would, therefore, be a piratical constitution if the importation of persons implied that the persons to be imported were slaves; that *the clause relative to the protection of "the States against domestic violence" does not imply the existence or legality of slavery, or protection against slave insurrections;* that "We, the people of the United States," means all the people of the United States; the constitution, therefore, made citizens of all the then people of the United States; that "the power to regulate commerce" is a power to regulate commerce among all the people of the United States, and implies that all are free to carry on commerce; that the power to establish post offices is a power to carry letters for all the people, and implies that all the people are free to send letters; that the power to secure to authors and inventors their exclusive right to their writings and discoveries, implies that all capable of writings and discoveries are capable of being the owners thereof; that the power to raise armies implies that Congress have power to accept volunteers, or hire soldiers by contract with themselves, and that all are free to make such contracts; that the power to arm and discipline the militia implies that all are liable to be armed and disciplined; that the right to keep and bear arms is a right of the whole people; that the prohibition upon any State law impairing the obligation of contracts implies that all men have the right to enter into all contracts naturally obligatory; that *all natural born citizens are eligible to the Presidency, to the Senate, and to the House of Representatives; that the trial by jury implies that all persons are free; that the habeas corpus denies the right of property in man; that the guarantee to every State of a republican form of government is a guarantee against slavery.*

CHAP. IX. THE INTENTIONS OF THE CONVENTION.—Personal intentions of the framers of no legal consequence to fix the legal meaning of the constitution. The instrument must be interpreted as being the instrument of the whole people.

CHAP. X. THE PRACTICE OF THE GOVERNMENT.—The practice of the government, under the constitution, has not altered the meaning of the constitution itself. The instrument means the same now that it did before it was ratified, when it was first offered to the people for their adoption or rejection.

CHAP. XI. THE UNDERSTANDING OF THE PEOPLE.—No legal proof, and not even a matter of history, that the people, before they adopted the constitution, understood that it was to support slavery. Could never have been adopted had they so understood it.

CHAP. XII. THE STATE CONSTITUTIONS OF 1845.—Do not authorize slavery; do not designate nor authorize the State Legislatures to designate the persons to be made slaves. Have provisions repugnant to slavery. *The treaties for the purchase of Louisiana and Florida imply that all the "inhabitants" were free, possessing the rights of liberty, property and religion, and were to become citizens of the United States.*

CHAP. XIII. THE CHILDREN OF SLAVES ARE BORN FREE.—Shows that, even if the persons held as slaves at the adoption of the constitution, were to continue to be held as slaves, *their children, born in the country, were nevertheless to be all free by virtue of natural birth in the country.*

PART SECOND.

CHAP. XIV. THE DEFINITION OF LAW.—The definition of law, given in chapter first, insisted on and defended. Additional authorities cited in note.

CHAP. XV. OUGHT JUDGES TO RESIGN THEIR SEATS?—*No; but to continue to hold them and do justice.*

CHAP. XVI. THE SUPREME POWER OF A STATE.—Absurd results from the theory that the Legislature represents "the supreme power of the State."

CHAP. XVII. RULES OF INTERPRETATION.—Examines the established rules of legal interpretation, and shows that they required the word "free," or the term "free persons," in the clause relative to representation, to be interpreted to mean native and naturalized persons, as distinguished from immigrants not naturalized; and not to mean persons enjoying their personal liberty, as distinguished from slaves.

CHAP. XVIII. SERVANTS COUNTED AS UNITS.—The provision that "those bound to service for a term of years" should be included among the "free persons," implies that there were to be no slaves.

CHAP. XIX. SLAVE REPRESENTATION.—Absurdity and injustice of it a conclusive reason against any interpretation authorizing it.

CHAP. XX. WHY ALIENS ARE COUNTED AS THREE-FIFTHS.—Not being full citizens, ought not to be counted as such. Inequality produced among the States by doing so.

CHAP. XXI. WHY THE WORDS "FREE PERSONS" WERE USED.—The word "free" had always been the technical word, both in this country and in England, for describing native and naturalized persons, as distinguished from aliens. The indefiniteness of the word "citizen" made it an improper word to be used, where precision of meaning was required.

CHAP. XXII. "ALL OTHER PERSONS."—These words used to avoid the use of the unfriendly and inappropriate word "aliens," and also to include "Indians not taxed."

CHAP. XXIII. ADDITIONAL ARGUMENTS ON THE WORD "FREE."—Showing that this word must be taken in the political sense before mentioned, and not as distinguished from slaves.

CHAP. XXIV. POWER OF THE GENERAL GOVERNMENT OVER SLAVERY.—*Origin and necessity of the power to abolish slavery in the States.*

APPENDIX A. FUGITIVE SLAVES.—Extended legal and historical argument on this subject.

APPENDIX B. SUGGESTIONS TO ABOLITIONISTS.—*Abolitionists can abolish slavery legally only by taking the ground that the United States constitution authorises the general government to abolish it.*

THE SUMMING UP.

CHAPTER XXIV.

POWER OF THE GENERAL GOVERNMENT OVER SLAVERY.

It is a common assertion that the general government has no power over slavery in the States. If by this be meant that the States may reduce to slavery the citizens of the United States within their limits, and the general government cannot liberate them, the doctrine is nullification, and goes to the destruction of the United States government within the limits of each State, whenever such State shall choose to destroy it.

THE PITH OF NULLIFICATION.

The pith of the doctrine of nullification is this, viz:—That a State has a right to interpose between her people and the United States government, deprive them of its benefits, protection and laws, and annul their allegiance to it.

If a State have this power, she can of course abolish the government of the United States at pleasure, so far as its operation within her own territory is concerned; for the government of the United States is nothing, any further than it operates upon the persons, property and rights of the people.* If the States can arbitrarily intercept this operation, can interpose between the people and the government and laws of the United States, they of course can abolish that government. And the United States constitution, and the laws made in pursuance thereof, instead of being "the supreme law of the land," "anything in the constitution or laws of any State to the contrary notwithstanding," are dependent entirely upon the will of the State governments for permission to be laws at all.

INVALIDITY OF STATE LAWS.

A State law reducing a man to slavery would, if valid, interpose between him and the constitution and laws of the United States, annul their operation—so far as he is concerned—and deprive him of their benefits. It would annul his allegiance to the United States; for a slave can owe no allegiance to a government that either will not or cannot protect him.

If a State can do this in the case of one man she can do it in the case of any number of men, and thus completely abolish the general government within her limits.

But perhaps it will be said that a State has no right to reduce to slavery the people generally within her limits, but only to hold in slavery those who were slaves at the adoption of the constitution, and their posterity.

SLAVEHOLDING A PRIVATE CRIME.

One answer to this argument is, that, *at the adoption of the constitution of the United States there was no legal or constitutional slavery in the States.* Not a single State constitution then in existence recognized, authorized, or sanctioned slavery. *All the slaveholding then practised was merely a private crime committed by one person against another, like theft, robbery or murder.* All the statutes which the slaveholders, through their wealth and influence, procured to be passed, were unconstitutional and void, for the want of any constitutional authority in the Legislatures to enact them.

* The Supreme Court of the United States say, the "powers" of the general government "are to be exercised directly on the people, and for their benefit."—4 Wheaton, 206.

THE STATES HOLD NO RESERVED POWERS.

But perhaps it will be said, as is often said of them now, that the State government had all power that was not forbidden to them. But this is only one of those bald and glaring falsehoods, under cover of which, even to this day, corrupt and tyrannical legislators enact, and the servile and corrupt courts, who are made dependent upon them, sustain a vast mass of unconstitutional legislation, destructive of men's natural rights. Probably half the State legislation under which we live is of this character, and has no other authority than the pretence that the government has all power except what is prohibited to it. The falsehood of the doctrine is apparent the moment it is considered that our governments derive all their authority from the grants of the people. Of necessity, therefore, instead of their having all authority except what is forbidden, they can have none except what is granted.

Everybody admits that this is the true doctrine in regard to the United States government; and it is equally true of the State governments, and for the same reason. The United States constitution (amendment 10) does indeed specially provide that the United States government shall have no powers except what are delegated to it. But this amendment was inserted only as a special guard against usurpation. The government would have had no additional powers if this amendment had been omitted. The simple fact that all a government's powers are delegated to it by the people proves that it can have no powers except what are delegated. And this principle is as true of the State governments as it is of the national one; although it is one that is almost wholly disregarded in practice.*

SLAVE STATUTES UNCONSTITUTIONAL.

The State governments in existence in 1789 purported to be established by the people, and are either declared or must be presumed, to have been established for the maintenance of justice, the preservation of liberty and the protection of their natural rights. And those governments consequently had no constitutional authority whatever inconsistent with these ends, unless some particular powers of that kind were explicitly granted to them. No power to establish or sustain slavery was granted to any of them. All the slave statutes, therefore, that were in existence in the States, at the adoption of the United States constitution, were unconstitutional and void; and the people who adopted the constitution of the United States must be presumed to have known this fact, and acted upon it, because everybody is presumed to know the law. The constitution of the United States, therefore, can be presumed to have made no exceptions in favor of the slavery then existing in the States.†

THE CONSTITUTION ABOLISHES SLAVERY.

But suppose, for the sake of the argument, that slavery had been authorized by the State constitutions at the time the United States constitution was adopted, the constitution of the United States would nevertheless have made it illegal; because the United States constitution was made "the supreme law of the land," "anything in the constitution or laws of any State to the contrary notwithstanding." It therefore annulled everything inconsistent with it, then existing in the State constitutions, as well as everything that should ever after be added to them inconsistent with it. It of course abolished slavery as a legal institution, (supposing slavery to have had any legal existence to be abolished,) if slavery were inconsistent with anything expressed, or legally implied, in the constitution.

Slavery is inconsistent with nearly everything that is either expressed or legally implied in the constitution. All its express provisions are general, making no exception whatever for slavery. All its legal implications are that the constitution and laws of the United States are for the benefit of the whole "people of the United States" and their posterity.

SLAVES A PART OF THE PEOPLE OF THE UNITED STATES.

The preamble expressly declares that "We, the people of the United States," establish the constitution for the purpose of securing justice, tranquillity, defence, welfare, and liberty, to "ourselves and our posterity." This language certainly implies that all "the people" who are parties to the constitution, or join in establishing it, are to have the benefit of it, and of the laws made in pursuance of it. The only question, then, is, who were "the people of the United States?"

We cannot go out of the constitution to find who are the parties to it. And there is nothing in the constitution that can limit this word "people," so as to make it include a part only of "the people of the United States." The word, like all others, must be taken in the sense most beneficial for liberty and justice. Besides, if it did not include all the then "people of the United States," we have no legal evidence whatever of a single individual whom it did include. There is no legal evidence whatever in the constitution by which it can be proved that any one man was one of "the people" which will not also equally prove that the slaves were a part of the people. There is nothing in the constitution that can prove the slaveholders to have been a part of "the people" which will not equally prove the slaves to have been also a part of them. And there is as much authority in the constitution for excluding slaveholders from the description—"the people of the United States"—as there is for excluding the slaves. The term "the people of the United States" must, therefore, be held to have included all "the people of the United States," or it can legally be held to have included none.

But this point has been so fully argued already, that it need not be dwelt upon here.‡

GOVERNMENT MUST SECURE TO THE PEOPLE ALL RIGHTS.

The United States government, then, being in theory formed by and for the benefit of the whole "people of the United States," the question arises, whether it have the power of securing to "the people" the benefits it intended for them? Or whether it is dependent on the State governments for permission to confer these benefits on "the people?" This is the whole question. And if it shall prove that the general government has no power of securing to the people its intended benefits it is, in no legal or reasonable sense, a government.

But how is it to secure its benefits to the people? That is the question.

BUT FIRST PERSONAL LIBERTY.

The first step, and an indispensable step, towards doing it, is to secure to the people their personal liberty. Without personal liberty none of the other benefits intended by the constitution can be secured to an individual, because, without liberty, no one can prosecute his other rights in the tribunals appointed to secure them to him. If, therefore, the constitution had failed to secure the personal liberty of individuals, all the rest of its provisions might have been defeated at the pleasure of the subordinate governments. But liberty being secured, all the other benefits of the constitution are secured, because *the individual can then carry the question of his rights into the courts of the United States, in all cases where the laws or constitution of the United States are involved.*

HABEAS CORPUS SECURES THIS.

This right of personal liberty, this sine qua non to the enjoyment of all other rights, is secured by the writ of habeas corpus. This writ, as has before been shown, necessarily denies the right of property in man, and therefore liberates all who are restrained of their liberty on that pretence, as it does all others that are restrained on grounds inconsistent with the intended operation of the constitution and laws of the United States.

Next after providing for the "public safety, in cases of rebellion and invasion," *the maintenance of courts for dispensing the privileges of this writ is the duty first in order, and first in importance, of all the duties devolved upon the general government;* because, next after life, liberty is the right most important in itself; it is also indispensable to the enjoyment of all the other rights which the general government is established to secure to the people. All the other operations of government, then, are works of mere supererogation until liberty be first secured; they are nothing but a useless provision of good things for those who cannot partake of them.

THE POWER OF THE GOVERNMENT MUST BE EXERTED

As the government is bound to dispense its benefits impartially to all, *it is bound, first of all, after securing "the public safety, in cases of rebellion and invasion," to secure liberty to all. And the whole power of the government is bound to be exerted for this purpose, to the postponement, if need be, of everything else save "the public safety, in cases of rebellion and invasion." And it is the constitutional duty of the government to establish as many courts as may be necessary, (no matter how great the number,) and to adopt all other measures necessary and proper for bringing the means of liberation within the reach of every person who is restrained of his liberty in violation of the principles of the constitution.***

We have thus far (in this chapter) placed this question upon the ground that those held in slavery are constitutionally a part of "the people of the United States," and parties to the constitution. But, although this ground cannot be shaken, it is not necessary to be maintained, in order to maintain the duty of Congress to provide courts, and all other means necessary for their liberation.

HABEAS CORPUS A CONSTITUTIONAL PRINCIPLE.

The constitution, by providing for the writ of habeas corpus, without making any discrimination as to the persons entitled to it, has virtually declared, and thus established it as a constitutional principle, that, in this country, there can be no property in man; for the writ of habeas corpus, as has before been shown,† necessarily involves a denial of the right of property in man. By declaring that the privilege of this writ "shall not be suspended, unless when, in cases of rebellion or invasion the public safety may require it," the constitution has imposed upon Congress the duty of providing courts, and if need be other aids, for the issuing of this writ in behalf of all human beings within the United States who may be restrained on claim of being property. Congress is bound by the constitution to aid, if need be, a foreigner an alien, an enemy even, who may be restrained as property. And if the people of any of the civilized nations were now to be seized as slaves, on their arrival in this country, we can all imagine what an abundance of constitutional power would be found, and put forth, too, for their liberation.

Without this power the nation could not sustain its position as one of the family of civilized nations; it could not fulfil the law of nations, and would, therefore, be liable to be outlawed in consequence of the conduct of the States. For example: If the States can make slaves of anybody they can certainly make slaves of foreigners. And if they can make slaves of foreigners, they can violate the law of nations, because to make slaves of foreigners is to violate the law of nations. Now the general government is the only government known to other nations; and if the States can make slaves of foreigners, and there were no power in the general government to liberate them, any one of the States could involve the whole nation in the responsibility of having violated the law of nations, and the nation would have no means of relieving itself from that responsibility by liberating the persons enslaved; but would have to meet, and conquer or die in, a war brought upon it by the criminality of the State.

HABEAS CORPUS LIBERATES MEN FROM SLAVERY.

This illustration is sufficient to prove that the power of the general government to liberate men from slavery, by the use of the writ of habeas corpus, is of the amplest character; that it is not confined to the cases of those who are a part of "the people of the United States," and so parties to the constitution; *that it is limited only by the territory of the country; and that it exists utterly irrespective of "anything in the constitution or laws of any State."*

This power, which is bound to be exerted for the liberation of foreigners, is bound to be exerted also for the liberation of persons born on the soil, even though it could be proved (which it cannot) that they are not legally parties to the constitution. The simple fact of their not being parties to the constitution (if that fact were proved) would no more alter the power or duty of Congress in relation to securing them the privilege of the writ of habeas corpus, than the same fact does in the case of foreigners, who confessedly are not parties to the constitution; unless, indeed, their coming into the country under the guarantee afforded by the habeas corpus clause of the constitution makes them, so far, parties to it. But this clause could operate as no guarantee of liberty to foreigners unless it guaranteed liberty to *all* born on the soil; for, there being no distinction of persons made, it certainly could not be claimed that it guaranteed greater privileges to foreigners than to the *least favored* of those born on the soil. So that it will still result that, unless the constitution (as it may be executed by the general government alone,) guarantees personal liberty to all born in the country, it does not guarantee it to foreigners coming into the country; and if it do not guarantee it to foreigners coming into the country, any single State, by enslaving foreigners, can involve the whole nation in a death struggle in support of such slavery.

THE CONSTITUTIONAL DUTY OF CONGRESS.

If these opinions are correct it is the constitutional duty of Congress to establish courts, if need be, in every county and township even, where there are slaves to be liberated; to provide attorneys to bring the cases before the courts; AND TO KEEP A STANDING MILITARY FORCE, IF NEED BE TO SUSTAIN THE PROCEEDINGS.

In addition to the use of the habeas corpus, Congress has power to prohibit the slave trade between the States, which, of itself, would do much towards abolishing slavery in the Northern slaveholding States. THEY HAVE POWER ALSO TO ORGANISE, ARM, AND DISCIPLINE THE SLAVES AS MILITIA, THUS ENABLING THEM TO AID IN OBTAINING AND SECURING THEIR OWN LIBERTY.

* The doctrine that the government has all power except what is prohibited to it is of despotic origin. Despotic government is supposed to originate, and does in fact originate, with the despot, instead of with the people; and he claims all power over them except what they have from time to time wrested from him. It is a consistent doctrine that such governments have all power except what is prohibited to them. But where the government originates with the people precisely the opposite doctrine is true, viz:—That the government has no power except what is granted to it.

†If, however, they had not known that the existing slavery was unconstitutional, and had proceeded upon the mistaken belief that it was constitutional, and had intended to recognise it as being so, such intended recognition would have availed nothing; for it is an established principle, recognized by the Supreme Court of the United States, that "a legislative act, founded upon a mistaken opinion of what was law, does not change the actual state of the law, as to pre-existing cases."—1 Cranch, 1: Peter's Digest, 578.

‡See Part First, pages 90 to 94, sec. edition. Also the argument under the "Sixth Rule of Interpretation," pp. 182 to 189 of this part, and under the "Second Rule cited for Slavery," pp. 214 to 216.

† It is not necessary, as some imagine, for Congress to enact a law making slavery illegal. Congress has no such power. Such a power would imply that slavery was now legal. Whereas it is now as much illegal as it is possible to be made by all the legislation in the world. Congress, assuming that slavery is illegal, is constitutionally bound to provide all necessary means for having that principle maintained in practice.

** Part First, chap. viii., p. 161, 2d ed.

SEWARD'S THREAT TO REORGANISE THE FEDERAL COURTS.

SPEECH IN THE SENATE, MARCH 3, 1858.

MR. PRESIDENT—I have shown why it is that the Kansas question is attended by difficulties and dangers only by way of preparation for the submission of my opinions in regard to the manner in which that question ought to be determined and settled. I think, with great deference to the judgment of others, that the expedient, peaceful and right way to determine it is to reverse the existing policy of intervention in favor of slave labor and slave States. It would be wise to restore the Missouri prohibition of slavery in Kansas and Nebraska. There was peace in the Territories and in the States until that great statute of freedom was subverted. It is true that there were frequent debates here on the subject of slavery, and that there were profound sympathies among the people awakened by or responding to those debates. But what was Congress instituted for but debate? What makes the American people to differ from all other nations but this: that while among them power enforces silence, here all public questions are referred to debate—free debate in Congress. Do you tell me that the Supreme Court of the United States has removed the foundations of that great statute? I reply that they have done no such thing; they could not do it. They have remanded the negro man Dred Scott to the custody of his master. With that decree we have nothing here, at least nothing now, to do. This is the extent of the judgment rendered, the extent of any judgment they could render. Already the pretended further decision is subverted in Kansas. So it will be in every free State and in every free Territory of the United States. The Supreme Court, also, can reverse its spurious judgment more easily than we could reconcile the people to its usurpation. *Sir, the Supreme Court of the United States attempts to command the people of the United States to accept the principles that one man can own other men, and that they must guarantee the inviolability of that false and pernicious property. The people of the United States never can, and they never will, accept principles so unconstitutional and so abhorrent. Never, never. Let the Court recede.* WHETHER IT RECEDES OR NOT, WE SHALL RECOGNISE THE COURT, AND THUS REFORM ITS POLITICAL SENTIMENTS AND PRACTICES, AND BRING THEM INTO HARMONY WITH THE CONSTITUTION AND WITH THE LAWS OF NATURE. In doing so, we shall not only reassume our own just authority, but we shall restore that high tribunal itself to the position it ought to maintain, since so many invaluable rights of citizens, and even of States themselves, depend upon its impartiality and its wisdom.

FLOATING OUT INTO THE LAKE ON A CAKE OF ICE FIFTY MILES LONG.—The Green Bay *Advocate* gives a thrilling account of the miraculous escape of Henry Martin, of Cedar River, and Isaac Gagnon, of Menominee, who, on the 3d instant, were drifted with their teams on a large cake of ice into the Bay. They unharnessed their horses and let them go, and taking the box off one of the sleds, began travelling and dragging it after them. The horses followed them for a long distance, but getting upon some broken ice they went down. Two hours afterwards one of the horses swam up to the cake of ice, and getting his head on it, looked at the men beseechingly, but they had to leave the poor creature to its fate. After travelling till midnight and being exhausted, they lay down under the lee of a hummock of ice. When morning dawned, they saw land, which upon reaching in safety proved to be Washington Harbor. The cake of ice was from forty to fifty miles long and two or three miles wide, and the men had crossed the bay on it in one of the heaviest gales that ever ruffled its waters.

THE BATTLE GROUND OF CONNECTICUT.

Overwhelming Rally of the Democracy.

HARTFORD MARCHING IN THE VAN.

ORATION BY THE HON. CALEB CUSHING.

ANOTHER SPEECH FROM MAYOR WOOD

Telling Anecdote of Two Republican Politicians.

Alarming Prostration of the Republicans,

&c., &c., &c.

There was a grand rally of the Hartford branch of united democracy of Connecticut, in the city of Hartfor[d] on Thursday evening last. A more unanimous and [en]thusiastic demonstration never was seen in that thriv[ing] and populous city. The agitation which has arisen on the slavery question, producing such direful results in most of the Eastern States, in the shape of strikes and incipient revolutionary movements, seems to have awakened the usually lethargic democracy to a sense of their duty and a comprehension of their great power. Throughout the whole State of Connecticut a spirit of union and patriotic devotion has been aroused, and it is evident that it cannot be allayed until the cause of right has triumphantly carried the camps of the enemy. Breakers have been seen ahead, and the navigators of the good ship are uniting hand and heart to save the vessel from total wreck. In the meeting of Thursday night the people of Hartford showed their colors bravely. A new building, called the National Democratic Hall, has been erected for their especial benefit, and during the whole of the campaign, eloquent and distinguished men from all parts of the country will speak there. The building covers an area of nearly 10,000 feet of land, and it is estimated that not less than four thousand persons were within its walls, besides the great number outside who were unable to obtain admission.

Owing to the immense crowd present it was nearly nine o'clock before the meeting could be fully organized. Club followed club in rapid succession until the edifice was completely packed, and even then, the surging of the throng here and there indicated the efforts that were made to obtain an eligible position for hearing the speaker. Delegations were also present from New Haven and the surrounding towns. The platform was occupied by the officers of the meeting, and the presence of a number of ladies upon it relieved the otherwise monotonous appearance of the crowd. A fine brass band was stationed at one end of the hall, and discoursed appropriate music during the proceedings, though at one time the throng around them was so great that the stand which they occupied nearly came down, and caused a momentary apprehension that a serious accident would take place. It was soon propped up, however, and the excitement allayed.

The meeting was called to order by A. E. Burr, Esq., Chairman of the State Central Committee, and organized as follows:—

PRESIDENT,

WILLIAM J. HAMMERSLY, Esq.,

and the following named gentlemen as vice presidents and secretaries:—

SEYMOUR CLUB.

Vice Presidents—Tim. C. Allyen, John G. Belden, Joel B. Green, Knight E. Sperry, A. S. Jerome.

Secretary—C. R. Savage.

ADOPTED CITIZENS' CLUB.

Vice Presidents—Pat. Lynam, Moses White, Pat. Kinnure, Peter Cosgrove.

Secretary—Edward McManus.

CHAPULTEPEC CLUB.

Vice Presidents—J. Hulburt White, G. A. Booth, Wallace Whitmore, Stephen Roper, A. L. Bliss.

Secretary—Justus Francis.

GERMAN SEYMOUR CLUB.

Vice Presidents—A. Rothchild, A. Wagner, P. Hebard, A. Rennings.

Secretary—P. Lux.

The organization being completed, a fine Glee Club in attendance sang the following campaign song, the chorus of which was heartily joined in by the lusty if not musical lungs of the immense audience:—

HURRAH FOR SEYMOUR.

AIR: *Hurrah Song.*

Tom Seymour is the man we sing,
Hurrah, hurrah, hurrah!
We'll make him Governor, sure, this spring,
Hurrah, hurrah, hurrah!
Of nigger fuss we've had enough;
The democrats are up to snuff;
Hurrah, hurrah, hurrah, hurrah!
Hurrah, hurrah, hurrah!

Tom Seymour is no Blackie proud,
Hurrah, &c.
For he's but one among the crowd,
Hurrah, &c.
To every man his house is free,
He never sneers at poverty;
Hurrah, &c.

He greets the laborers in the streets,
Hurrah, &c,
Speaks kindly words to all he meets,
Hurrah, &c.
To honest toil he gives his hand
As to the highest in the land,
Hurrah, &c.

He drove the foe from off the field,
Hurrah, &c.
And caused the Mexicans to yield,
Hurrah, &c.,
And so the Blackies ranks he breaks,
In spite of half grown "Wide Awakes."
Hurrah, &c.

The Blackies, aided by their Bissell,
Hurrah, &c.,
To keep their courage up may whistle,
Hurrah, &c.,
But though they shout and laugh so gay,
They soon will laugh another way,
Hurrah, &c.

In April next we'll show them fun,
Hurrah, &c.,
We'll lick them then sure as a gun,
Hurrah, &c.;
Then let us raise our battle cry,
"Forward the Ninth to Victory!"
Hurrah, &c.

Mr. WILLIAM J. HAMMERSLEY, Chairman of the mee[ting] then opened the proceedings by addressing the aud[ience] as follows:—

GENTLEMEN—This building, though rude and humb[le] dedicated to one of the noblest political purposes tha[t] engage the attention of American freemen. (Applau[se.]) No public hall in this city being large enough to hol[d the] increasing numbers of the democracy of this town, [we] have erected this structure with the view of rece[iving] within its walls those men who gather together to l[isten] to the eloquent advocates of our Union and our cons[titu]tion. And it is highly proper, gentlemen, that in [this] building, which has been named National Hall—[(ap]plause)—the speech of the evening should be made [by a] gentleman whose eminent reputation as a national d[emo]crat is co extensive with the Union itself. Gentlemen[, the] history of the democratic party is a history of the su[ccess] of the American republic. It is unfortunately true [that] at various periods the policy of the democratic part[y has] been unwisely opposed in New England. When [under] the illustrious administration of Thos. Jefferson, Loui[siana] was annexed to this confederacy, that movement me[t with] but little approbation from the people of New [Eng]land, who have been so much and so vitally bene[fited] by it. And, although from time to time, other le[ading] measures of the democratic party have been muc[h op]posed in New England, it is nevertheless this section [of the] country which has been largely the gainer by this p[olicy]. When the war of 1812 was declared, for what wa[s that] great contest fought? It was because, to a large [extent] the men of New England—her hardy sons who fol[lowed] the sea—were impressed by the British governmen[t, and] it was to protect the rights of these men and the ho[nor of] the American nation that that war was declared. [And] yet it was opposed by a large portion of the pe[ople of] New England. Again, gentlemen, when an imp[ortant] financial measure of the democratic party was adop[ted]—I allude to the independent Treasury—there came a [storm] of opposition from New England; and yet if any c[lass] of men more than another have been benefited b[y that] measure it is the manufacturers of New England. [So] the democratic policy redounds to the benefit of ou[r] people and our own manufacturers in spite of their [opposi]tion. We did them good in spite of themselves. [When] Texas was annexed to this confederacy, it was co[ntrary] to the wishes of a large portion of the pop[ulation] of New England; and yet the fact remains, that th[e an]nexation was productive of vast benefit to our ma[nufac]turing interests, in opening for them a new market. [So] did the national democracy do good to the people o[f New] England, in spite of themselves. When our Congr[ess de]clared that war existed with Mexico, there was [a] great opposition from New England; but notwiths[tanding] this, I am glad to say that many of her patriotic s[ons vo]lunteered their services in behalf of the country. [Among] them was Pierce, of New Hampshire; (cheers,) C[ushing,] of Massachusetts; (applause;) Ransom, of Vermo[nt, (ap]plause,) and Seymour, of Connecticut, (great che[ers.)] One of the important political consequences of th[at war] was the addition of a large territorial area to this re[public,] with an important frontage on the Pacific ocean; a[nd, gen]tlemen, it is a singular and significant fact that th[e mi]neral treasures which had so long lain unknow[n in the] bowels of the earth, were discovered almost sim[ultane]ously with the annexation of California. It was th[en that] our commercial marine carried our New [England] manufactures and that living freight of en[terpris]ing Americans, who, sailing through th[e Golden] Gates of San Fransisco, gathered from th[e inex]haustible mines the treasures which are consta[ntly in]creasing the wealth of our country. Looking, th[en,] at the policy of the democratic party from the ver[y origin] of parties to the present time, you will find that [it] has been for the benefit of the whole country. Ne[w Eng]land people and New England manufacturers have g[ained] a large share of its advantages. It is for the main